

AUG 14 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

US District Court
Western District of NC

NTN Corporation and NTN Bearing
Corporation of America,

Plaintiffs,

v.

Steve Thomas, Individually and America
Europa, Inc. and America Europa II, Inc. d/b/a
AE Inc.,

Defendants.

Civil Action No.: 3:13cv461

**TEMPORARY RESTRAINING ORDER
AND ORDER SETTING HEARING**

On August 14, 2013, the Court heard Plaintiffs' application for temporary restraining order. The Court, after examining the sworn pleadings and the evidence attached, finds that Plaintiffs are entitled to a temporary injunction and unless Defendants are immediately restrained from the commission of the acts hereafter prohibited, Defendants will commit such acts resulting in irreparable harm to Plaintiffs before notice of the hearing on temporary injunction can be served and a hearing had.

Further, the Court also finds an *ex parte* order is necessary without notice to Defendants, because there is insufficient time to give notice to Defendants, hold a hearing and issue a temporary restraining order. The Court further finds that (1) Plaintiffs are the owner of numerous federal trademark registrations bearing the NTN trademark; (2) NTN bearings are utilized in a variety of heavy equipment and other industrial machinery; (3) the use of the counterfeit NTN bearings could have devastating consequences, causing potential damage to people and equipment; (3) Defendants are engaged in and/or otherwise involved in facilitating

the ongoing commercial importation of counterfeit NTN bearings into the United States; and (4) the bearings at issue are counterfeit. The Court further finds that Plaintiffs have established a probable violation by Defendants of the Lanham Act, 15 U.S.C. § 1114, *et seq.*, Tariff Act, 19 U.S.C. § 1526(a), and North Carolina law.

IT IS THEREFORE ORDERED that Defendants, and their respective agents, attorneys, servants, employees and representatives, and all persons acting through, for or in concert with them, are hereby restrained from the following:

1. Importing, purchasing, distributing, selling, or offering for sale any bearings or other goods containing NTN Trademarks or which are otherwise purported to be NTN bearings;
2. Disposing of, exporting, removing, destroying or altering any of the counterfeit bearings, including without limitation any bearings or other goods containing NTN Trademarks or which are otherwise purported to be NTN bearings; and
3. Directly or indirectly using or infringing any of the NTN Trademarks, either through counterfeits or by using any colorable imitations or confusingly similar facsimiles thereof.

IT IS FURTHER ORDERED that Defendants are ordered to maintain all books, records and documents, in whatever format, within Defendants' custody or control relating or pertaining to any and all counterfeit bearings, including any containing NTN Trademarks or that are purported to be NTN bearings, which are not to be altered, changed or modified in any way.

IT IS FURTHER ORDERED that this restraining order is effective immediately and shall continue in force and effect until further order of this Court or until it expires by operation of law. This order shall be binding on the Defendants, on Defendants' agents, attorneys, servants, and employees, and on those in active concert or participation with them who received actual

notice of this order by personal service or otherwise. A bond is hereby set in the amount of \$2,500.

IT IS FURTHER ORDERED that the Defendants are hereby ordered to appear in person, before this Court in the Charles R. Jonas Federal Building at 401 West Trade Street, Room 210, Charlotte, North Carolina, 28202, on August 27th 2013, at 11:00 AM. The purpose of the hearing is to determine whether the preceding temporary restraining order should be made a preliminary injunction and whether the Court should make such other and further orders as requested for or as may be deemed necessary and equitable.

IT IS FURTHER ORDERED that any person 18 years of age or older who is not a party or interested in the outcome of the suit may serve any citation, notice, or process in this case.

SIGNED this 14th day of August, 2013, at 11:20 AM.

Graham C. Muller
S.B. U.S. District Judge